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A New Order?
Human Rights in 1992

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INDONESIA/EAST TIMOR

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INTRODUCTION

In the past year the Indonesian Government has taken a number of unprecedented initiatives which appear to signal a positive shift in its attitude toward human rights. Yet the grim factual record of human rights practice in 1992 tells a different story. Political killing, "disappearance", torture, arbitrary detention, political imprisonment and the use of the death penalty have continued without significant interruption, despite intermittent changes in the level and nature of violations reported in particular regions. The violations have not been confined to East Timor but have occurred throughout the territory under Indonesian rule.

Government forces extrajudicially executed and "disappeared" scores of alleged supporters of independence in Aceh and East Timor in 1992, as well as criminal suspects in Jakarta and other cities. Torture and ill-treatment of political detainees, peaceful demonstrators and criminal suspects continued to be common and resulted in some deaths. Hundreds of people were arrested and held without trial for up to two years as suspected opponents of the government. More than 180 suspected government opponents were prisoners of conscience, including some 30 sentenced during the year. At least 300 political prisoners, and possibly many more, continued to serve lengthy sentences imposed after unfair trials. Twenty-two political prisoners were judicially executed between 1985 and 1992, most after serving more than twenty years in jail, and seven political prisoners remained on death row.

This report examines the record of human rights practice in Indonesia and East Timor since the Santa Cruz massacre of November 1991. It finds that there has been no fundamental change in the government's repressive posture toward political dissent, and that basic human rights continue to be violated in the name of national security, stability and order. It also finds that the government's human rights initiatives, while certainly a step in the right direction, have not addressed the root causes of human rights abuse. The report concludes that human rights abuse has become institutionalized in Indonesia and East Timor, and that concrete measures are urgently needed to remedy the problem. To this end, Amnesty International offers a number of practical recommendations to the Indonesian Government and to the United Nations Commission on Human Rights which, if implemented, it believes would contribute to the future protection and promotion of human rights.

1. AN OVERVIEW OF HUMAN RIGHTS IN 1992

The gravest violations of human rights reported to Amnesty International in the past year have occurred in the context of counter-insurgency operations in East Timor and Aceh, where the government has continued to face both peaceful and armed opposition to its rule. In these areas, military authorities have been free to employ virtually any means - including unlawful execution, "disappearance", arbitrary detention and torture - in the interest of maintaining national security, and destroying what the government calls *Gerakan Pengacau Keamanan* (Security Disruptors Movements). Yet, as the evidence in this report demonstrates, the human rights problem is not confined to areas of rebel activity. Serious violations occur throughout the country, including on the most populous island of Java and in the major cities. Here, too, it is the logic of national security which is frequently used to justify violations by government security forces.

The most widely reported human rights abuses have occurred in East Timor, the former Portuguese colony invaded by Indonesia in 1975, and still occupied in defiance of United Nations General Assembly and Security Council resolutions.[1] In Amnesty International's view, the human rights situation there has not improved since the Santa Cruz massacre of 12 November 1991, in which at least 100 peaceful demonstrators, and possibly many more, were killed by Indonesian forces.[2] While there has been no single incident on a comparable scale in the past year, the overall pattern of human rights violations - encompassing short term detention, torture and ill-treatment of suspected political opponents, intermittent political killings and "disappearances", long-term political imprisonment after unfair trials, and the intimidation of relatives and human rights workers - has continued unabated.

Far less well known, and certainly less widely reported, has been the pattern of grave violations in Aceh, where an armed secessionist movement, *Aceh Merdeka*, has been active since early 1989. *Aceh Merdeka* is reported to have committed some abuses against the civilian population; Amnesty International condemns these unreservedly. However, human rights violations by government forces in Aceh have been both more

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[1] Amnesty International takes no position on East Timor's political status. However, it believes that continuing discussions on the political future of the territory must be informed by a thorough understanding of the human rights situation there.

[2] For further details of the massacre and its aftermath see the following Amnesty International reports: *East Timor: The Santa Cruz Massacre*, **November 1991 (ASA 21/23/91);** *East Timor: After the Massacre*, **November 1991 (ASA 21/24/91);** *Indonesia/East Timor: Santa Cruz - The Government Response*, **February 1992 (ASA 21/03/92);** *Indonesia/East Timor: Fernando de Araujo - Prisoner of Conscience*, **May 1992, (ASA 21/07/92);** *East Timor: "In Accordance with the Law" Statement before the UN Special Committee on Decolonization*, **July 1992 (ASA 21/11/92). The Santa Cruz massacre was only the most widely publicized case of political killings in East Timor, where as many as 200,000 of a population of about 600,000 have died since the invasion of 1975. Further information about human rights violations in the aftermath of the invasion may be found in the Amnesty International report,** *East Timor: Violations of Human Rights* **1985 (ASA 21/16/85).**

systematic and more widespread. An estimated 2,000 civilians, including children and the very elderly, have been unlawfully killed, sometimes in public executions; hundreds, possibly thousands of villagers have been arbitrarily arrested on the merest suspicion of supporting *Aceh Merdeka*; many of those detained have been held incommunicado for long periods, and subjected to ill-treatment and torture to extract confessions or political intelligence; and more than 50 have been sentenced to lengthy prison sentences after unfair trials, including some who neither used nor advocated violence.

The absolute level of political killings and other violations reported from Aceh has subsided somewhat in the past year. However, in Amnesty International's view, it would be wrong to conclude from this evidence that there is no longer a serious human rights problem in the area, or that the situation does not warrant urgent international concern. There are at least three reasons why.

First, as the evidence in this report suggests, grave violations do continue, even if on a reduced scale. That the cases of political killing, "disappearance" and arbitrary arrest reported in 1992 were in the scores rather than the hundreds or thousands is small consolation to the victims, or to the relatives of those killed or still missing. Second, the relative "peace and order" which now prevails in Aceh does not appear to reflect any significant change in the policies or practices of the Indonesian security forces. It reflects, rather, a significant decline in open opposition to the government and a pervasive fear of government retribution on the part of ordinary people living in areas of suspected rebel activity. Under the circumstances, a pattern of grave and widespread violations may quickly re-emerge in the event of renewed opposition to Indonesian rule. Third, thorough, independent and impartial investigations of the violations committed over the past four years have not yet been carried out, nor have the suspected perpetrators been brought to justice. Not only does this leave unresolved the fate of thousands of victims, it sends a clear message to the perpetrators that such violations can be committed with impunity, thereby making future violations even more likely to occur.

The same combination of factors which has given rise to serious violations in Aceh and East Timor has also been evident outside the areas of rebel activity. Taken together, the pervasive rationale of national security, the preponderant influence of the military, and the failure to investigate abuses and bring the suspected perpetrators to justice, has contributed to the institutionalization of a pattern of grave human rights abuse throughout the country.

2. THE POLITICAL AND LEGAL CONTEXT

The so-called "security approach", a central feature of the New Order regime for more than 25 years, has continued to have far-reaching implications for human rights in Indonesia and East Timor within the past year. The government remains intolerant of political dissent and "disorder" and strictly curtails the civil and political rights of alleged political opponents and former political prisoners; heavy restrictions continue to be imposed on human rights monitors both domestic and international; the cause of justice remains subordinate to the interests of national security; and with few exceptions, the perpetrators of serious violations have not been brought to justice.

Civil and Political Liberties

Evidence of official intolerance of political dissent is not difficult to find. While some government officials have expressed support for the principle of political "openness" in recent years, others, including the President and the Armed Forces Commander, have warned that "foreign ideologies", such as communism and liberalism, are a threat to national security.[3] Tens of thousands of former members of the Indonesian Communist Party (PKI), banned since 1965, remain subject to restrictions affecting their freedom of movement and civil rights, including the right to vote, to travel and to work.[4] Thousands of people, both Indonesian citizens and foreigners, remain on an official government blacklist restricting entry to and exit from the country, and a new immigration law (Law No 9/1992) includes provisions preventing the return to Indonesia of citizens deemed to have tarnished the government's image while abroad.[5]

In spite of guarantees in the Indonesian Constitution, strict limits are imposed on freedom of speech, assembly and association. Each year dozens of books and plays are banned on the grounds that they might cause disorder, or that they express views critical of the government or the national ideology, *Pancasila*. Among the books banned in 1992 was a report on the political trials in Aceh, prepared by the Indonesian Legal Aid Foundation (LBH). The government also has the authority to revoke the publishing license of a newspaper if its reporting is deemed to be "irresponsible". Strikes and peaceful demonstrations by students, farmers and the urban poor, though lawful in principle, have often been forcefully dispersed by security forces; the organizers have been detained for questioning and some have been charged with "incitement".[6]

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[3] Most recently, in January 1993 the head of the national intelligence body (BAKIN) warned that, in the increasingly liberal political atmosphere in Indonesia, there was a need for increased vigilance against ideas which were at odds with the national ideology, *Pancasila*.

[4] According to recent government figures there are 1,353,896 former PKI prisoners, divided into categories A, B, and C, depending on the degree of their alleged involvement in the party and the 1965 coup. In June 1992, the government announced that 36,345 of them would not be permitted to vote in that month's general elections.

[5] In November 1992, the Coordinating Minister for Political and Security Affairs announced that roughly 33,000 former PKI members remained on a government blacklist restricting their travel out of the country. In January 1993 the government announced that the total number of the blacklist had been reduced to just under 9,000, including Indonesian citizens and foreigners. This figure was said to include 4,152 people not permitted to leave the country and 4,745 not permitted to enter.

[6] For a detailed analysis of labour rights practices in Indonesia and East Timor, see Asia Watch, *Indonesia: Charges and Rebuttals Over Labor Rights Practices*, 23 January 1992.

Despite the existence of three political parties and regular elections, the political system is tightly controlled by the President and his close advisers. Open opposition is frowned upon, and where necessary it is directly prohibited. In June 1992 following general elections tainted by allegations of vote-rigging, all three political parties nominated President Suharto to stand for his sixth consecutive term. As in previous years, there were no other candidates, and it appeared inevitable that Suharto would be re-elected at the next session of the People's Consultative Assembly (MPR) in March 1993. In January 1993, following a series of peaceful student demonstrations urging the MPR to consider the nomination another candidate, the government announced a ban on all public gatherings until the MPR session had ended.

Notwithstanding its stated commitment to religious freedom and tolerance, the government has banned scores of religious groups and sects. Religious orators and poets who have expressed anti-government views have been banned from speaking in public. Government and military authorities have also interfered directly in the internal affairs of recognized religious bodies. In December 1993, for example, the Regional Military Commander for North Sumatra intervened in an internal dispute within the Batak Christian Protestant Congregation (*Huria Kristen Batak Protestan* or HKBP) over the appointment of a new "Archbishop" (*Euphorus*), issuing a decree appointing his own choice for the position. In subsequent weeks military and police authorities used force to disperse church members who gathered to protest the decree, and arbitrarily detained at least 60 people.[7] Later the same month, shortly before Chinese New Year, the government issued a decree banning the celebration of the holiday in Buddhist temples on the grounds that it "...could strain the process of assimilation between the ethnic Chinese and the indigenous people".[8]

Restrictions on Human Rights Monitoring

Some government and military authorities have displayed a deep suspicion of human rights activists and organizations. Indonesian non-governmental organizations which expressed concern about the November 1991 massacre in East Timor were accused of serving the interests of foreign powers and some were threatened with legal penalties. In a military briefing prepared in advance of the September 1992 Non-Aligned Movement meeting in Jakarta, human rights organizations, including Amnesty International, were named as potential security threats. In November 1992 a Regional Military Commander named three types of "extremists" as the major threats to national security - the "extreme left" (communists), the "extreme right" (religious fanatics), and the "extreme other" (including human rights organizations and environmentalist groups). More recently the Armed Forces Commander warned that human rights issues were being used for subversive ends by "fourth generation communists". In Amnesty International's view, the public expression of such views by powerful military and government authorities contributes to an atmosphere in which human rights violations are more likely to occur.

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[7] For a full account of the incident, see the recent report by Asia Watch, *Indonesia: Military Repression Against the Batak Church*, 25 January 1993.

[8] This statement by an official of the Ministry of Religion was cited in the *Jakarta Post* (29.1.93).

Continued restrictions on access to East Timor and parts of Indonesia have also contributed to this atmosphere by making effective human rights monitoring almost impossible. Notwithstanding the general improvement in its access to political prisoners, the ICRC was unable to conduct confidential prison visits in East Timor between March and December 1992. Parliamentary delegations from the European Parliament, the United States and Australia were refused permission to visit East Timor during the year, and access to foreign journalists was tightly circumscribed. Despite granting permission to Amnesty International to visit Jakarta for five days in January 1993, the government continued to reject the organization's requests for access to carry out research in Indonesia and East Timor.

A Dependent Judiciary

The Indonesian judiciary, while formally independent from executive authority, is in practice subordinate to it, particularly where matters of national security are at issue. As civil servants, Indonesia's judges and public prosecutors are not free to oppose the government position in political trials. As a consequence a guilty verdict is a foregone conclusion in such cases. The Code of Criminal Procedure (KUHAP) includes provisions for the protection of the rights of suspects and fair trial guarantees.[9] Yet in practice, the rights of detainees - such as access to a lawyer during interrogation, and freedom from ill-treatment and torture - are not guaranteed. The UN Special Rapporteur on Torture has noted that the problem is particularly acute in situations where the government is facing a perceived threat to national security. However, similar shortcomings are common throughout the country even in relatively normal circumstances.

Laws pertaining to crimes against national security and public order carry stiff penalties. The most notorious is the sweeping Anti-Subversion Law, originally issued as a Presidential Decree in 1963, which carries a maximum penalty of death. There are indications that the Anti-Subversion law may be set for repeal in accordance with the recommendation of the UN Special Rapporteur on Torture. However, the new Criminal Code (currently in its final drafting stages) will retain a wide range of political crimes, and may indeed incorporate elements of the Anti-Subversion Law itself, in slightly revised form. The new Code is also expected to retain the death penalty, with the provision that it will only be used "selectively".

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[9] **The rights of suspects and defendants are spelled out in Chapter VI of Indonesia's Code of Criminal Procedure (KUHAP).**

The Problem of Impunity

If conviction is a foregone conclusion for alleged political criminals in Indonesia and East Timor, the prosecution and conviction of the perpetrators of human rights violations continue to be the exception rather than the rule. The most significant exception in 1992 was the trial of ten members of the security forces before a military tribunal in connection with the Santa Cruz massacre. Yet, despite at least 100 killings and substantial evidence of torture during and after the massacre, none of those tried was charged with murder and only one, a police corporal, was charged with assault. All received light prison sentences of between eight and 18 months.[10] One other military official was tried during the year in connection with the March 1990 torture and killing of Candido Amaral in East Timor; he was sentenced to two months in jail. Little action was taken against members of the security forces who committed serious violations against suspected government opponents in other parts of the country. A small number of police officials were, however, tried and sentenced for torture leading to the death of criminal suspects.

3. GOVERNMENT HUMAN RIGHTS INITIATIVES

It is within this political and legal context that the government has recently taken a number of initiatives aimed at promoting and protecting human rights. While these moves may signify an important shift in the attitude of at least some government officials, to date they have had no significant impact on human rights practice in Indonesia and East Timor.

Perhaps the most widely publicized government initiatives were taken in response to domestic and international concern over the Santa Cruz massacre. The government promptly established a National Commission of Inquiry to conduct an investigation and its findings were released before the end of the year. Shortly thereafter military authorities set up a Military Honour Council which was given the task of investigating responsibility for the massacre within the armed forces. In February 1992 the government welcomed a visit to East Timor by Amos Wako, a Personal Envoy of the UN Secretary-General, to seek clarification about the massacre. Following the recommendations of the various inquiries, ten members of the security forces were tried for disciplinary offences in June 1992, and a number of high-ranking officers were removed from their posts. These moves represented an important departure in human rights practice in Indonesia. Unfortunately, as the evidence in this report demonstrates, the measures taken by the government did not provide any practical remedy for past violations, nor did they result in any significant improvement in the human rights situation in the territory.[11]

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[10] In stark contrast, East Timorese accused of organizing the peaceful demonstration were tried and sentenced to terms of up to life imprisonment. For further details, see Section 4.4 of this report, "Prisoners of Conscience and Political Trials".

Among the initiatives taken by the government in the past year were two aimed at establishing national institutions for the protection and promotion of human rights. In August 1992, members of Indonesia's national legislative body (*Dewan Perwakilan Rakyat, DPR*) announced the formation of a human rights committee. Though the committee has little or no legal authority, and has not yet undertaken any significant human rights work, its existence signifies an important shift in the attitude of at least some members of the legislature. In January 1993 President Suharto took the government's commitment further by announcing plans to establish a national human rights commission in the near future. Though details of its mandate and composition have yet to be determined, the government has given assurances that the commission will be independent.[12]

Further evidence of positive change may be found in the government's somewhat more open attitude toward the public discussion of human rights. While the issue is still regarded as politically sensitive, seminars and workshops related to human rights have become more frequent, and the national media is increasingly able and willing to report and comment on such matters. The most recent evidence of this trend was the government's agreement to host - and to permit extensive media coverage of - the Second United Nations (UN) Asia-Pacific Workshop on Human Rights Issues, held in Jakarta from 26 to 28 January 1993.

The government's decision to permit an Amnesty International delegate to attend the UN Workshop was also an encouraging sign, in view of the fact that the organization had been barred from visiting Indonesia and East Timor for 15 years. Unfortunately, the government limited the duration of the Amnesty International delegate's stay to just five days, thereby precluding any in depth discussion with government authorities or investigation of the human rights situation. Requests for a visa extension were denied, as were requests to hold substantive talks with government officials during the visit. The five-day limitation also prevented the delegate from travelling to East Timor, as requested, to observe the trial of resistance leader, Xanana Gusmão.

While human rights monitors continue to face significant obstacles in their work, the government has gradually improved access to political detainees by the International Committee of the Red Cross (ICRC). Whereas in 1989 ICRC representatives were permitted to visit only a few dozen prisoners still detained in connection with the 1965 coup, by the end of 1992 they had been given access to most categories of political prisoner, including those from East Timor, Aceh, Irian Jaya, as well as Muslim prisoners in Java and Sumatra. However, the government continues to deny such access - or to grant it only after some delay - where matters of national security are deemed to be at stake.

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[11] Amnesty International's detailed critique of the government's response is set forth in *Indonesia/East Timor: Santa Cruz - The Government Response* February 1992 (ASA 21/03/92).

[12] As a contribution to the government's deliberations on these issues, in January 1993 Amnesty International submitted to the government a document entitled *Proposed Standards for National Human Rights Commissions* January 1993 (IOR 40/01/93).

A member of the UN Commission on Human Rights since 1991 the Government of Indonesia has repeatedly affirmed its commitment to international human rights principles and norms. It has also promised to implement the recommendations of various UN bodies with respect to human rights. These are encouraging signs, but unfortunately the government has failed to give concrete expression to most of these commitments. It has, for example, yet to ratify the most important human rights conventions, such as the International Covenant on Civil and Political Rights (ICCPR) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).[13] Nor has it implemented the majority of the recommendations made by the UN Special Rapporteur on Torture in his 1992 report about Indonesia to the UN Commission on Human Rights (see Appendix I). Finally, it has failed to respond adequately to serious concerns about human rights in East Timor, expressed on two separate occasions in the past year by member states of the United Nations.[14]

Recent government initiatives and statements of commitment to human rights appear to reflect a positive change in the government's approach to human rights issues. However, these initiatives have not been matched by concrete measures to remedy past abuses, or to prevent future human rights violations. The structures, policies and attitudes which lie at the root of grave human rights abuse in Indonesia and East Timor, and which have contributed to their institutionalization under the current regime, remain substantially unshaken. The government, and particularly the military command which constitutes its political core, has made it clear that basic human rights can and will be set aside in the name of national security, stability, order and development. Effectively unchallenged by the international community, and unchecked by domestic legal or political mechanisms, the security forces have continued to commit violations with impunity.

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[13] The government signed the CAT in 1985, thus expressing its intention to become a party to the convention as soon as feasible, but has not yet done so.

[14] These were: 1) the consensus statement of the 48th session of the UNCHR concerning human rights in East Timor, delivered by the Chairman on 4 March 1992 (Appendix II); and 2) Resolution 1992/20 of the 44th session of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities was passed on August 1992 (Appendix III).

4. EXTRAJUDICIAL EXECUTION AND "DISAPPEARANCE"

Though especially common in the context of government counter-insurgency operations, extrajudicial killings and "disappearances" have also become a central part of the government's institutional repertoire in dealing with other perceived threats to national security, including criminal activity and peaceful political opposition.[15]

At least 100 civilians, and possibly as many as 250, were killed by government forces in the Santa Cruz massacre and its immediate aftermath. More than a year after completing its investigation, the government had yet to identify the vast majority of those killed. While no massacre on a similar scale has been reported since November 1991, Amnesty International has received reports of at least 40 extrajudicial executions in East Timor in the past year. These reports, though difficult to confirm, suggest that the problem of unlawful killing persists in East Timor. Amnesty International considers that, in view of past practice, such reports warrant immediate investigation.

Among those reportedly killed by Indonesian forces in 1992, was **Humberto** of Lospalos, shot by soldiers of Battalion 745 while working in his field in August. According to reports, the soldiers cut off his head and his arms, and hung them in a tree beside the road to frighten passers-by. Another reported victim was **Alcino Freitas Belo**, the brother of a prisoner of a conscience sentenced earlier in the year. He was said to have died after being shot and then beaten by soldiers in Baucau on 5 October. Claiming that Belo was a guerrilla, the soldiers reportedly seized him from a hospital where he had sought treatment for a bullet wound, then beat him to death. The army told relatives that Belo had been killed in an armed encounter. After disputing the official military account of the death, a village head from Baucau and several members of the community were held incommunicado for several weeks by military authorities, giving rise to fears that they had "disappeared". Other reported victims of extrajudicial execution in East Timor included sixteen civilians shot by government forces in Maliana, in November 1991, and dozens killed in Colvalima, near the border with West Timor, in July.

More than two hundred people who reportedly "disappeared" after the November 1991 massacre remained unaccounted for at the end of 1992.[16] Eyewitnesses and relatives of the "disappeared" believed that many had been killed and their corpses buried outside Dili or thrown into the sea. The government, which promised to investigate the "disappearances," acknowledged in June 1992 that at least 66 were missing but did not release their names, or return the bodies of those known to have been killed.

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[15] In the immediate aftermath of the 1965 coup, some 500,000 to one million civilians were unlawfully executed by government forces or by groups acting with their encouragement or acquiescence, and a similar number were arbitrarily arrested. Between 1983 and 1985, government death squads summarily executed an estimated 5,000 people in various cities in Indonesia. The executions, known as "mysterious killings" (*petrus*) were often carried out in public places and the victims' bodies were usually left in full public view. Scores more civilians were killed by government forces in further incidents at Tanjong Priok in 1984 and in Lampung province in 1989.

[16] In November 1992 the UN Working Group on Enforced or Involuntary Disappearances transmitted to the Indonesian government the names of 207 people believed to have "disappeared" at the time of the massacre.

Dozens of new "disappearances" were reported from East Timor in 1992; some of the victims were later discovered to have been in incommunicado military or police detention, but others were feared dead. The "disappeared" included **Marcos dos Santos** and **Ercolano Soares**, both residents of Dili, who "disappeared" after being detained by the police on 14 July 1992. According to reports, they were beaten by their captors, then taken to the military hospital in Lahane, after which their whereabouts were unknown. Another victim was **Arnaldo de Araujo** who was arrested in September 1992 by a joint force of police and intelligence officers while resting at his home in Lahane, Dili.[17] According to eyewitnesses, he was handcuffed and blindfolded before being taken to a waiting vehicle. Two months later he was still missing. Another of the victims was **Gaspar Xavier Carlos**, who was arrested in early September together with several friends. He was believed to have been held incommunicado in Colmera Prison in Dili for some time, but subsequently "disappeared". Relatives feared that he had been killed.

A similar pattern of extrajudicial execution and "disappearance" has been evident in Aceh. While the scale of violations has diminished since the height of the counter-insurgency campaign between 1989 and 1991, political killings and "disappearances" have continued in the region in the last year. Just as importantly, the fate of most of those killed or "disappeared" in previous years has yet to be clarified.

The victims of extrajudicial execution in 1992 included elderly men such as **Teungku Imam Hamzah**, aged 80, who was reportedly shot dead without reason by security forces in April while walking down the road in Lhok Kruntjong, Aceh. Teungku Imam Hamzah was alleged to be a well-known supporter of *Aceh Merdeka*, but he was not armed at the time of his death and soldiers reportedly gave no warning before firing. In December 1991 a young man was reportedly killed, and his body mutilated by soldiers belonging to KOPASSUS (*Komando Pasukan Khusus*), a special counter-insurgency force, in Pidie. According to reports, **Nurdin Usman Murni** was decapitated and his arms and legs were severed from his body.

At least forty people were reported to have "disappeared" in Aceh during the year. They included **Abdurahman** an alleged supporter of *Aceh Merdeka*, who "disappeared" while serving a 17-and-a-half year sentence for subversion in Lhokseumawe jail in Aceh. Members of a prison fellowship who went for a regular visit to the jail in June 1992 discovered that Abdurahman was not there. Prison officials said that he had been transferred to the military headquarters (KOREM) in Lhokseumawe but military authorities there denied having him in custody. Another alleged member of *Aceh Merdeka*, **Mohammad Jaafar Abdurahman Ed**, a father of four, was arrested in August

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[17] He is a relative of the prisoner of conscience Fernando de Araujo

1990 on suspicion of assisting *Aceh Merdeka*, after reporting to a local military command to protest his innocence. He was subsequently transferred to a KOPASSUS command post for interrogation. Thereafter, military authorities refused to provide relatives or lawyers with any information about his fate, and it was feared that he had been killed.

To Amnesty International's knowledge, there have been no investigations into the unlawful killings and "disappearances" reported over four years in Aceh, and no official condemnation of the practice. Thus, while it is true that the absolute number of political killings and "disappearances" in Aceh has declined substantially in the past year, there has been no fundamental change in the conditions which allowed them to occur. Amnesty International believes, therefore, that there is a real danger that a similar pattern of violations may emerge in the context of future counter-insurgency operations in Aceh or other parts of the country.

Extrajudicial executions have also been committed by police officers in Jakarta and other major cities. At least 27 criminal suspects were shot dead in Jakarta in 1992, and a further eight were killed in January 1993, as part of a continuing "shoot-on-sight" policy instituted by the city's police chief in 1989 which has left more than 100 dead in three years.[18] Of those killed in the past year, at least ten died in suspicious circumstances while in the custody of police. In many cases, police authorities claimed that the victim had been shot while trying to escape or while attempting to seize an officer's weapon, but the circumstances of the killings cast serious doubt on these explanations.

One of the victims was a robbery suspect named **Heri Gunawan**. According to the Jakarta police he was shot dead in September 1992 while showing them a hiding place of fellow gang members. Police authorities said they had been "forced" to shoot Gunawan when he tried to flee his police escort. They said he was shot first in the back and then twice in the head at close range. Other victims included two suspected gang members shot and killed while in police custody in January 1993. According to Jakarta police authorities, **Ahmadi** and **Rubai** attempted to flee after being taken to the gang's hiding place, despite the fact that both were in handcuffs. A police official explained that, after the two asked permission to urinate and got out of the police vehicle, they "...flexed their muscles and managed to break their handcuffs...then ran away in different directions". Police claimed they were "forced" to shoot Rubai in the back, while Ahmadi was shot in the chest at close range after allegedly trying to grab a police officer's pistol.

Criminologists and human rights lawyers criticized the shoot to kill policy, but police authorities defended the policy saying it was "...necessary to counter the savage and brutal criminals" in the city.

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[18] **According to official figures, 36 criminals were shot dead by police in 1991.**

5. ARBITRARY ARREST AND INCOMMUNICADO DETENTION

Hundreds of alleged government opponents were detained without charge or trial in 1992, and denied access to relatives and lawyers in contravention of Indonesia's Code of Criminal Procedure. Others had been held for more than two years before being formally charged or released during the year. Government forces used arbitrary arrest to intimidate suspected opponents of Indonesian rule in East Timor and Aceh, and to gather political intelligence. Striking workers, peaceful demonstrators and those advocating the rights of vulnerable communities were also subjected to arbitrary arrest by government forces acting in the name of stability and order.

More than 300 East Timorese were detained following the Santa Cruz massacre in November 1991. Most were released after interrogation but at least 24, and possibly many more, were held in Dili without charge or trial for more than three months. Seventy other East Timorese were arrested during a peaceful demonstration in Jakarta one week after the massacre. Forty-nine were released after two weeks, but the rest were held without charge or trial until March 1992. As a condition for their release, all were made to sign affidavits renouncing their peaceful political beliefs and stating their willingness to face legal sanction - including the death penalty - should they commit similar "offences" in the future.

Hundreds more East Timorese were detained during the year, often to prevent them from engaging in peaceful political activities. In September 1992, for example, the government announced that six East Timorese had been arrested in order to prevent them from organizing a demonstration during the Non-Aligned Movement summit in Jakarta.[19] Scores of others were arbitrarily detained on similar grounds in the weeks prior to the anniversary of the Santa Cruz massacre in late October 1992. The most recent wave of arrests began with the capture of **Xanana Gusmão**, the leader of the East Timorese resistance movement, on 20 November. He was held incommunicado for more than two weeks, giving rise to serious concern for his safety. In a subsequent crackdown, more than seventy people, including several of Xanana Gusmão's relatives, were arrested. Most were held incommunicado for several weeks, and some were tortured.[20] Arrests on a similar pattern continued to be reported in early 1993.

In Aceh and North Sumatra, military authorities released hundreds of alleged supporters of *Aceh Merdeka* who had been held in unacknowledged detention for up to two years. None of those released had been charged or tried and all had been denied procedural guarantees stipulated in Indonesia's Code of Criminal Procedure. Military authorities in the region told human rights lawyers that the Code did not apply where national security was at stake. As in East Timor, all of those released were required to sign and swear an oath of loyalty to the government and the national ideology, *Pancasila*, as a condition of their release. Scores of others were believed to remain in unacknowledged police or military custody in Aceh at the end of the year.

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[19] Independent sources said that about 50 people had been detained in early September, of whom 43 had been released by mid-September.

[20] ICRC representatives were able to visit some, but not all, of these detainees in mid-December 1992.

It was reported in June 1992 that three men, **Hasan Tito**, **Slamet Suryadi** and **Jayus bin Karmo** had been held incommunicado without charge or trial by military authorities in Lampung province for more than two years. All three had reportedly been tortured and denied access to lawyers; Hasan Tito's wife had been prevented from meeting her husband for eighteen months. The men were accused of harbouring armed rebels who the government claimed had intended to establish an Islamic state.[21] In September, following protests from human rights organizations, two of the men were released without charge. The third, Jayus bin Karmo, was charged with subversion and brought to trial, but had not been convicted by the end of the year.

Human rights activists and others working on behalf of vulnerable communities were frequently subjected to short-term detention without charge. The practice appeared to be intended to disrupt such activities, however lawful, and to obtain information about the organizers and participants. In January 1993 a group of 19 university students were detained in connection with their peaceful activities on behalf of farmers in the village of Blangguan, East Java. The students were part of a group which visited the village to show their support for residents who had been evicted from their land.[22] Prevented by military forces from carrying out their planned program in the village, the group returned to Surabaya with a small delegation from Blangguan to express their concern to members of the Provincial Legislature (DPRD) in Surabaya. The 19 were arrested on the same day. They were all released within 30 hours, but some were reportedly beaten, punched and subjected to electric shocks while under questioning.

6. TORTURE AND ILL-TREATMENT

Torture and ill-treatment of political detainees continued to be widely practised in Indonesia and East Timor in 1992. As the UN Special Rapporteur on Torture noted in his 1992 report "...torture occurs in Indonesia, in particular in cases which are considered to endanger the security of the state. In areas which are deemed to be unstable... torture is said to be practised routinely."[23] Strikers, peaceful protesters, members of poor rural and urban communities, and criminal suspects were also tortured and ill-treated, and some died as a result. Cases of torture were seldom properly investigated and the prosecution of suspected perpetrators was the exception rather than the rule.

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[21] Scores of civilians from the same community were reportedly killed in a government assault in February 1989, and dozens of alleged rebels of the so-called "Warsidi gang" were subsequently jailed for subversion (see *Amnesty International Report, 1990*).

[22] The group was called Committee of Solidarity with the People of Blangguan (*Komite Solidaritas untuk Rakyat Blangguan, KIRAB*). The residents of Blangguan were evicted in 1986 to make way for the enlargement of a Marine training base. Those who resisted eviction or demanded higher compensation for the land were accused of being communist agitators.

Political Detainees

As in previous years suspected supporters of independence for East Timor were subjected to torture and ill-treatment in order to extract confessions or political intelligence. In August 1992, **Agostinho Pereira** was detained at Dili airport by security forces who suspected that he was a member of a pro-independence group. Eyewitnesses said that he was beaten on the spot by soldiers until his face was swollen and blood came from his ears. According to reports received by Amnesty International, his whereabouts remained unknown in January 1993 and there was concern that he may have "disappeared".

Immediately after his arrest, dozens of young East Timorese were detained. One of those arrested in early September and held for one month, whose name is known to Amnesty International, gave the following account of his treatment while in custody:

> At 9am the agents sought me out at the Polytechnic in Hera and I had no choice but to surrender. I was handcuffed and tortured on the spot and then taken to Colmera prison where I was hit and kicked and generally taken revenge upon. I was asked my name, to which I responded...They laughed as they tortured me further, tearing off my rosary and forcing me to eat [it], the way they had done to the youths on the day of the Santa Cruz massacre. They ripped off and stole my gold chain and after having drawn blood, placed me in an empty room where I was left for two days without food. In a nearby house where there are cells, I heard the voices of prisoners, some of whom were moaning with hunger. One of the voices I thought to be that of my brother...but I couldn't positively identify it. Two days later I was interrogated again and had all of my clothing, apart from shorts, taken from me. I was accused of being the leader of the clandestine group and forced to admit that I knew about everything. Since I denied this, they began again with their dreadful torture: electric shocks, beatings with a club and, whilst forced to kneel on sharp rocks, I was burned with cigarettes and electric irons. Today my whole body bears the scars resulting from this torture. I was forced to sit on the floor with both feet up on a chair and then a huge rock weighing roughly 30 kilos was placed on my knees for a long period of time, whilst I was being interrogated. Today my left knee is crippled. During the

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[23] Report of the Special Rapporteur on Torture on his visit to Indonesia and East Timor, UN Document E/CN.4/1992/17/Add.1, paragraph 73.

> interrogations one of my colleagues...was also brought in and subjected to torture. When I first saw him, I was totally unable to recognize him because of the physical state he was in. I remained in the cell for one month and, fearing that my death was imminent, I decided to escape rather than be shot.

Military authorities were also reported to have tortured or ill-treated some of the hundreds of suspected government opponents detained since early November 1992. One man, **Enrique Belmiro Guterres**, was reportedly hospitalized after his finger-nails were pulled out and his hands broken by his captors.[24] Military and police officials were also said to have raped some of the women in their custody. The victims included three young women from Ainaro, whose names are known to Amnesty International. According to reports, they were arrested and then raped by soldiers of the local military post (KORAMIL) on 8 June 1992.

In Aceh and North Sumatra scores of suspected supporters of *Aceh Merdeka* were reported to have been tortured or ill-treated by security forces during the year. Among them was **Ishak bin Ismael**, a village head, who was arrested by security forces and taken to the police station at Baktia where he was tortured to death. According to reports police placed a large wooden beam across the back of his neck and then stood or jumped on it until he was dead. His body was placed in a sack and thrown into a nearby river.

Drs Ismail bin Gani, a father of four and a civil servant at the office of the Regent of Sigli, was arrested and tortured by military authorities in March 1992. Suspected of being an *Aceh Merdeka* supporter, he was held incommunicado for two months and reportedly tortured to extract a confession. When his wife was allowed to visit him in May, for the first and only time, his arms and legs were broken and he had to be carried by soldiers to meet her. He told her that he had been beaten repeatedly with a length of 2" by 2" wood, and had not received any medical treatment.

In May 1992 another suspected *Aceh Merdeka* supporter, **Saleh Ibrahim**, was detained, beaten and threatened with death by members of the counter-insurgency force, KOPASSUS, at a command post in Peureulak. Ibrahim said he had been punched and threatened with knives, pistols and dogs by three soldiers at the post so that he would confess. He was one of a group which had recently returned from Malaysia where they had sought refuge together with more than 200 others in previous years.

Civilians living in *Aceh Merdeka* base areas were also subjected to ill-treatment and torture by security forces seeking revenge or military intelligence. In April 1992, at least a dozen people of the village of Tjot Kruet, Pase, were reportedly beaten by soldiers searching for two suspected members of *Aceh Merdeka*. The victims, who included three elderly men, were also forced to beat members of their own families, to crawl over rough terrain and to stare into the sun for several hours.

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[24] **Another, Jorge Manuel Araujo Serrano, was reported to have died in custody following torture, though this could not be confirmed.**

Vulnerable Communities

Military and police personnel used excessive force to disperse peaceful demonstrations and strikes, sometimes causing serious injury during the year. In late October, for example, soldiers and riot police wielding automatic weapons and batons dispersed a peaceful demonstration of about 200 young people in Yogyakarta. The protesters were calling for the formation of a new youth organization to replace the government-sponsored group which, they said, had failed to reflect the needs and aspirations of ordinary people. A number of demonstrators were injured in the incident and at least 14, including two journalists, were taken in for questioning, but none was charged.

Members of communities resisting eviction from their land or their homes were also subjected to ill-treatment. In February 1992 four people, including a 12-year-old child, were detained and beaten by security forces after they tried to resist the destruction of their homes in Rawa Baru Dua, West Jakarta. They were among a large number of residents who had rejected government compensation offers and had refused to destroy their own homes as ordered. Lawyers representing the community in the land dispute said:

> Those who were detained suffered serious ill-treatment. They were only released late at night after being forced to sign a statement that they would not interfere with others who wished to accept the official compensation offer. When they finally returned to their homes they were completely black and blue.

The urban poor, particularly women and children, were frequently beaten and otherwise ill-treated by security personnel carrying out "cleanliness" and "order" campaigns in various parts of the country. In August 1992 an illiterate woman, **Habibah**, who earned her living by selling bananas in Keude Sungai Raya, Aceh Timur, was punched and beaten by members of an "Orderliness Team" which had come to remove her roadside kiosk. The team, which included military personnel, tied her hands and feet with a nylon rope and carried her to a nearby medical clinic, where she was given an injection to make her sleep before being loaded onto a bus to her home village. A local government official said Habibah's kiosk and others in the area had to be removed because they "...could interfere with traffic and ruin the view of the mosque." He denied that Habibah had been forcibly sedated but a health official confirmed that she had been given an injection to "calm her down."

Journalists seeking to cover such incidents were not immune from ill-treatment. In late 1991 two journalists, **Suryansyah** and **Dwitri Waluyo**, from the weekly news magazine *Editor* were beaten up by security personnel as they tried to take photographs of an "Orderliness Operation" in Jakarta. After taking one photograph, Suryansyah was approached by one of the soldiers who said: "What do you think you're doing - have you got permission from the Regional Military Commander to take pictures?" When the journalist answered "Not yet, Sir", the soldier punched him in the face, then demanded that he hand over the camera and tape-recorder. When Dwitri protested, and asked for a warrant, she too was punched. Military authorities later promised to investigate the case, but it was unclear whether any official action had been taken by the end of the year.

Criminal Suspects

Criminal suspects, including juveniles, were also tortured and ill-treated in custody, and some reportedly died as a result. **Sofyan Lubis**, a shoe-shine boy aged 16 accused of stealing clothes, died in the Tanjung Gusta Children's Prison in Medan in September 1992. Prison officials claimed that he had suddenly become ill and had died on the way to hospital, but an autopsy concluded that his death had been "unnatural". According to relatives and lawyers, his corpse bore clear signs of torture; his stomach, chest and neck were severely bruised, two teeth were missing, and blood was coming from his mouth, nose, ears and genitals. A prisoner in a neighbouring cell said that she had heard screams coming from Sofyan's cell on the night of his death and had later been told by a prison guard that he was dead. An investigation by the Ministry of Justice concluded in November 1992 that Sofyan Lubis had not died of torture, but when challenged by doctors and relatives, the Ministry admitted that its report was "not accurate".

A man being tried in connection with an armed robbery claimed in court in March 1992 that he had lost the sight in one eye as a result of being beaten by three police interrogators in Bandung. **Amas Hadiansyah** said that he and a friend, **Ujang Suherman**, had been repeatedly punched in the face by police and beaten with a wrench and a length of wood in order that they would confess. A doctor who examined Amas' eye after the beating confirmed that it had been blinded by a "sharp blow." In response to the allegations of torture, the judge at the Bandung District Court and the Bandung Chief of Police both said that they would look into the matter, and take action if it was proven that the police officers had acted improperly. There had been no news of any action being taken by the end of the year.

A young man on trial in Madura for theft revealed that he had been beaten repeatedly by a prison officer and another inmate (a former police officer), at the Bangkalan detention centre in early July 1992. When he entered the courtroom two weeks later "**Mus**" was limping and needed assistance to walk; his legs were visibly swollen. Opening his shirt he showed the court that his body was black and blue and that his back was covered with lash wounds. He explained that after a disagreement with another inmate he had been called to the prison office where a prison official and the inmate proceeded to beat and lash him with a thick electric cable. After the beating he was returned to his cell where he fainted; when he regained consciousness he was placed in solitary confinement. The prison head later acknowledged that "within certain limits" the beating of prisoners was condoned, but promised to investigate the case.

In Sabang, Aceh, a man was tied up and tortured by dozens of police officers over the course of five days because he had hit a member of the local police force. **Mulyadi** was reportedly tied crucifix-style in the police headquarters while police and members of other security forces took turns punching and beating him with rifle butts and wooden sticks. He was also said to have been cut with knives and burned with cigarettes. Following his ordeal he was imprisoned for a further six months; after being released he was unable to bend his legs.

Military and civilian authorities have acknowledged that torture is still used by members of the security forces but they have denied that it is a matter of policy. Yet even if torture is not government policy, there can be little doubt that it has become routine. In Amnesty International's view, the failure of government authorities to investigate thoroughly reported instances of torture and ill-treatment, and to bring the perpetrators to justice, has inevitably contributed to the institutionalization of the practice.

7. PRISONERS OF CONSCIENCE AND UNFAIR POLITICAL TRIALS

At least 180 suspected government opponents were prisoners of conscience or possible prisoners of conscience at the end of 1992, of whom some 30 were sentenced during the year. They included advocates of independence for East Timor, Aceh and Irian Jaya, as well as Islamic activists, former members of the PKI, university students and human rights workers. In addition, some 300 political prisoners were serving long sentences imposed after unfair trials.

Prisoners of Conscience

At least 13 of the scores of East Timorese arrested at the end of 1991 were believed to be prisoners of conscience. Four were sentenced to prison terms ranging from nine years to life imprisonment for subversion and nine others received lesser sentences for "publicly expressing hostility" towards the government.[25] **Francisco Maria Branco** and **Gregorio da Cunha Saldanha** were sentenced to 15 years' and life imprisonment respectively for organizing the peaceful pro-independence demonstration in Dili in November 1991. **Fernando Araujo** and **João Freitas da Camara** were also convicted of subversion and sentenced to nine and ten years for organizing a peaceful march in Jakarta one week later to protest against the killings. In his verdict the judge said that Fernando Araujo was also guilty of "undermining the Indonesia government and disgracing the nation in the eyes of the international community" because he had sent information about human rights violations to the International Committee of the Red Cross and Amnesty International.

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[25] For further detail about the charges and the trials of East Timorese in 1992 see the following Amnesty International reports: *Indonesia/East Timor: Fernando de Araujo - Prisoner of Conscience*, May 1992 (ASA 21/07/92); and *East Timor: "In Accordance with the Law" Statement to the UN Special Committee on Decolonization*, July 1992 (ASA 21/11/92).

In Aceh and North Sumatra, more than 20 alleged supporters of *Aceh Merdeka*, were sentenced during the year to prison terms of up to 20 years for subversion. Some appeared to be prisoners of conscience, including police sergeants **M. Yacob** and **Idris Ahmad**, who were each sentenced to 11 years' imprisonment for copying and distributing "illegal pamphlets on religious issues". Sergeant Ahmad acknowledged in court that he supported efforts to promote and protect Islam but denied that he was an *Aceh Merdeka* sympathizer. A university lecturer, **Teungku Armia Muhammad Ali**, and a civil servant, **Drs Hasbi Abdullah**, were sentenced to five years each for attending "illegal meetings" at which *Aceh Merdeka* activities and the idea of an Islamic state were discussed. Drs Abdullah was also accused of allowing three alleged rebel sympathizers to stay at his home briefly in 1989. More than thirty other alleged supporters of *Aceh Merdeka*, sentenced in unfair trials in 1991, continued to serve prison sentences between four years and life imprisonment.

More than 100 political prisoners from Irian Jaya, at least 70 of them prisoners of conscience, remained in jail in 1992 for advocating Irian Jaya's independence. The majority were convicted of subversion and sentenced to lengthy prison terms for their involvement in peaceful flag-raising ceremonies in 1989 and 1990. Among those sentenced were **Dr Thomas Wainggai** and his wife **Teruko Wainggai**, a Japanese national. They were sentenced to terms of life and 8 years respectively. Most of the prisoners from Irian Jaya were held in East Java, more than 2,500 kilometres away, making it difficult for their relatives to visit them.[26]

At least 50 of an estimated 300 Islamic activists imprisoned for subversion, and serving sentences up to life imprisonment, were also believed to be prisoners of conscience. They included **Abdul Fatah Wiranagapati**, aged 69, who was sentenced to eight years' imprisonment in June 1992 for "undermining the state ideology", and attempting to establish an Islamic state. According to the court he had not used violence but had spread his ideas by holding meetings and preaching about Islamic law. In his verdict, the presiding judge said that Wiranagapati had "...used his preaching in mosques to disseminate anti-government propaganda". Others sentenced in previous years included people convicted of subversion for their involvement with *usroh* groups, which advocated closer ties among Muslims and a stricter adherence to Islamic teachings.

At least 30 prisoners sentenced in the 1960s after unfair trials for alleged involvement in the 1965 coup attempt or for PKI membership remained in prison in 1992, seven of them on death row. Most were believed to be prisoners of conscience. One such prisoner, **Sanusi bin Haji Muhammad Ibrahim**, was released from prison in August after serving a life sentence; another, **Johannes Sucipto**, died in custody in 1992 after 26 years in prison. A number of former PKI prisoners remained under house or city arrest, including one of the country's most respected writers, **Pramoedya Ananata Toer**, whose written works are banned.

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[26] For further information about human rights violations in Irian Jaya, see the Amnesty International document *Indonesia: Continuing Human Rights Violations in Irian Jaya* April 1991, ASA 21/06/91.

Several young people have been sentenced to lengthy prison terms for the possession of banned literary works in recent years. **Bambang Subono** was arrested on 9 June 1988 while selling copies of the novel *Ruma Kaca* (Glass House) and other works by Pramoedya Ananta Toer. **Bambang Isti Nugroho**, a student at Gajah Mada University, Yogyakarta, was arrested in June 1988 on similar charges.[27] The two were found guilty of subversion and sentenced to 7 and 8 years' imprisonment respectively. A third student, **Bonar Tigor Naipospos**, was arrested in Jakarta in June 1989. In 1990 he was convicted of subversion and sentenced to eight and a half years' imprisonment for possessing and distributing literature said to contain communist ideas, and for disseminating Marxist teachings in discussion groups and through his own writings. At the trial the prosecutor also stated that the defendant had circulated the works of Pramoedya Ananta Toer.

Four university students charged with political crimes in 1991 and 1992 were due to be tried early in 1993. **Lukas Luwarso** and **Poltak Ika Wibowo**, were detained in May 1992, held for one month, and charged with "expressing hostility" toward the government for taking part in a cultural event at Diponegoro University in Semarang which criticized the country's electoral process and urged young people to boycott the June 1992 national elections. Two others, **Mathius Hosang** and **Buntomi WH**, former students at Satya Wacana University in Salatiga, were charged with distributing a calendar (entitled "Land For the People") containing cartoons deemed to discredit the government. Judicial and police authorities announced in December 1992 that both of these cases would be brought to trial soon after the March 1993 session of the People's Consultative Assembly (MPR).

Several young people were imprisoned during the year for their part in theatrical performances deemed to be insulting to Islam. In January 1993 the director and assistant director of a theatre troupe in Salatiga, Central Java, were convicted of blasphemy for staging a play in which phrases from the Quran were made the subject of word play. **Djoni Purwoto** and **Sugiri Cahyono**, were sentenced to prison terms of four and three-and-a-half years respectively, though the prosecutor had demanded only three years each. In a similar case tried in Yogyakarta in June 1992, two university students, **Bambang Wahya Nirbita** and **Ambar Widi Atmoko**, were jailed for two and a half years each.

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[27] The arrest was apparently based upon information obtained from Bambang Subono during his interrogation by the military. On the basis of that information the security forces searched Bambang Isti Nugroho's home and seized a number of banned books, including several works by Pramoedya Ananta Toer, along with tape recordings of discussions and seminars conducted by the Palagan Study Group. For further details of the charges and the trial proceedings see the Amnesty International document *Indonesia: Subversion Trials in Yogyakarta* August 1989 (ASA 21/10/89).

The two were arrested following complaints that a comedy routine they had performed in late April 1992 had offended Islam.

Some members of communities involved in land disputes with government authorities were tried and convicted of inciting opposition to the government. **Muhidin**, a resident of a squatter community in Plumpang, North Jakarta, was detained and eventually tried in December 1992 for allegedly inciting residents to resist government officials who had come to destroy their houses in April 1992. He denied the charges in court, saying he had only given advice to the community and had helped them to file a law suit against the government for the demolition. On 10 December 1992, Muhidin received an award from an independent Indonesian human rights foundation for his "unfailing determination in advocating human rights." In January 1993, he was sentenced to five months in jail.

Human rights activists have also been subjected to arrest on political charges for carrying out their lawful activities on behalf of vulnerable or disadvantaged communities. A human rights lawyer, **Dadang Trisasongko**, was arrested in October 1992 and accused of subversion, incitement and "expressing hostility toward the government". The precise allegations against him were not known but colleagues believed they were linked to his professional activities on behalf of villagers in Singosari, East Java, who opposed the placement of high tension wires in their community by the State Electricity Company (PLN). Following protests from human rights organizations, the subversion charge was dropped and Dadang Trisasongko was released from custody. However, other charges remained and he was due to stand trial in early 1993.

Unfair Political Trials

Political trials in Indonesia and East Timor have consistently failed to meet international standards of fairness, or to conform with Indonesia's own Code of Criminal Procedure (KUHAP). Most political prisoners have been convicted under Indonesia's sweeping Anti-Subversion law, which is still commonly used despite insistent recommendations for its repeal by members of the Indonesian legal profession, and by the UN Special Rapporteur on Torture. Others have been jailed for various crimes against national security and public order specified in the Indonesian Criminal Code (KUHP), including that of "publicly expressing feelings of hostility toward the government" (Article 154).

As in previous years, defendants in political cases tried in 1992 were held incommunicado for periods up to several months, and tortured or pressured to extract confessions. Some defendants were convicted on the basis of uncorroborated confessions or testimony extracted under duress. **Gregorio da Cunha Saldanha**, wounded in the 12 November procession and then sentenced to life imprisonment for subversion in 1992, gave the following account of his interrogation by police in Dili:

> During the period of our detention in the regional police office prison,

> they took turns interrogating us, day and night. On a date I don't remember towards the end of November 1991, we were subjected to interrogations from the afternoon until the following morning. At that time we were very weak because of our injuries, and yet we were beaten and threatened by the Inspector...We were surrounded by other police, some of whom joined in pulling our moustaches. **We were obliged to give an explanation in accordance with the wishes of the investigators, not according to the true facts** [emphasis added].

Most political detainees were also denied access to legal counsel of their choice. Lawyers defending East Timorese and suspected supporters of *Aceh Merdeka* reported that they were unable to meet their clients, or see copies of relevant court documents, prior to the commencement of the trial. When consultation was allowed, in the case of East Timorese on trial in Dili, it was repeatedly disrupted by members of the local security apparatus. Procedures during the trials also failed in many respects to conform to Indonesia's Code of Criminal Procedure. In the trial of East Timorese charged with subversion, for example, the defendants were not given an opportunity to call witnesses in their own defence.

In principle many of these irregularities could have been challenged in pre-trial proceedings (pra-peradilan). However, as defence lawyers for East Timorese prisoners noted, this process failed to take place because the detainees "...were completely denied access or communication with the world beyond the prison". Moreover, defence lawyers were subjected to political pressure from the authorities to ensure that the defendants would be found guilty. Lawyers defending political suspects in Aceh noted that they were "advised" by military and judicial authorities not to provide too strong a defence.

It is against this background of systematic unfairness that the trial of East Timor's resistance leader **Xanana Gusmão**, must be understood. In Amnesty International's view this trial, like all previous political trials in East Timor and Indonesia, is unlikely to meet international standards of fairness. Indeed, practices highly prejudicial to a fair trial have already been evident in this case. After his capture on 20 November Xanana Gusmão was held in incommunicado detention for 17 days before ICRC representatives were permitted to see him. Available evidence suggests that he may have been psychologically or physically ill-treated during this period, and that he may have been forced to make confessions, and other statements, under duress. Throughout his interrogation, Xanana Gusmão was not accompanied by a lawyer, as required under Indonesian law.[28] Independent lawyers from the Legal Aid Institute (LBH) were not permitted to visit him, despite having been given power of attorney by his immediate relatives. A defence lawyer from a different organization was finally appointed on 26 January 1993, more than two months after Xanana Gusmão's arrest, and just six days before the trial began.

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[28] Article 54 of the KUHAP specifies that: "In the interest of defence, a suspect or defendant has the right to get legal assistance from one or more legal advisers during the period and at every level of examination, according to the procedures determined by this law."

The Indonesian authorities have not charged Xanana Gusmão under the sweeping Anti-Subversion Law. This is a positive development in view of the way in which that law has been abused in the past to imprison political opponents. However, it must be stressed that the charges which have been brought against Xanana Gusmão remain essentially political rather than purely criminal in nature.[29] The prosecutor alleged, among other things, that Xanana Gusmão had been responsible for organizing the peaceful procession to the Santa Cruz Cemetery on 12 November 1991. In view of the political nature of the charges, and the procedural irregularities outlined above, Amnesty International believes that the laws under which Xanana Gusmão is being tried are potentially as subject to abuse as the Anti-Subversion Law. Indeed, these laws have been the basis for the conviction of scores of East Timorese in notoriously unfair trials since the mid-1980s.

In view of the fact that Indonesia's sovereignty over East Timor is not recognized by the United Nations, the competence of Indonesian courts to try Xanana Gusmão, and other East Timorese, has yet to be established. Nevertheless Amnesty International believes that every effort must be made to ensure that, when they do take place, such trials fully comply with international standards of fairness.

It also believes that the presence of qualified international observers at all political trials would provide a concrete demonstration of the government's commitment to upholding such standards. Accordingly, on 27 January 1993 Amnesty International requested permission to attend the trial of Xanana Gusmão. The government had not replied before the trial began in February, but one official told the Indonesian media that Amnesty International would not be welcome.[30]

8. THE DEATH PENALTY

At least 34 people, but possibly many more, were on death row at the end of 1992; seven of them were political prisoners. They included a former member of parliament, **Sukatno**, and six other elderly men sentenced in unfair trials for involvement in the 1965 coup attempt or PKI membership. At least three people were sentenced to death for murder in 1992 and one person, **Sergeant Adi Saputro**, was executed in December 1992 for murder. While the death penalty is now most commonly imposed in cases of murder, in recent years it has been carried out disproportionately against political detainees convicted of subversion.[31] Of the 30 people judicially executed since 1985, 22 have been political prisoners.

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[29] The precise charges brought are as follows: 1) Seeking to separate a part of the national territory from the authority of the state, (KUHP Article 106) which carries a maximum penalty of life imprisonment; 2) Leading an armed rebellion against the Indonesian state (KUHP Article 108), which carries a maximum penalty of 20 years in prison; 3) Conspiring to commit both of the crimes specified above (KUHP Article 110); and 4) Unauthorized possession of firearms (UU 12/Drt/1951), which carries a maximum penalty of death.

[30] This statement by East Timor's Governor, Abilio Jose Osorio Soares, contrasted with comments by Attorney General Singgih and the Armed Forces spokesperson Nurhadi, who both said in mid-January that foreign observers, including representatives of Amnesty International, were free to attend the trial as long as they were not on the official government black list restricting entry into the country.

One prisoner in imminent danger of execution is **Kamjai Khong Thavorn**, a Thai sailor sentenced to death in January 1988 for smuggling 17.5kgs of heroin. Married with two young children, Kamjai Khong Thavorn was the sole bread-winner for his family at the time of his arrest in 1987. His family, who live in a squatter settlement in Bangkok, have been unable to afford the fare to visit him in prison since that time.[32] Following unsuccessful appeals to the High Court and the Supreme Court, his request for Presidential clemency was denied. In October 1992 his lawyers requested a further review of the case by the Supreme Court to present previously unheard evidence strongly indicating his innocence. In December 1992, the Court rejected the request for a review saying that it was satisfied that Kamjai was guilty. Amnesty International believes that Kamjai Khong Thavorn's trial may have been unfair and that he may have been wrongly convicted.

9. CONCLUSIONS AND RECOMMENDATIONS

The Indonesian authorities have stated that the November 1991 Santa Cruz massacre in East Timor was an isolated incident, an unfortunate aberration in an otherwise acceptable pattern of behaviour by government security forces. However, the information available to Amnesty International indicates that this is far from the truth. In the quarter of a century since the current regime came to power, the Government of Indonesia has been responsible for a staggering range of violations of human rights, of which the November 1991 massacre was only one of the most widely publicized examples. Extrajudicial execution, "disappearance", political imprisonment, torture and the death penalty have become part of an institutional repertoire for dealing with political dissent and other perceived threats to national security, stability and order throughout the country. Amnesty International believes that, unless concrete measures are taken promptly, there is every likelihood that this pattern of abuse will continue.

Amnesty International offers the following recommendations which, if implemented, it believes would contribute toward the future protection of basic human rights in Indonesia and East Timor. Most of the recommendations are based on the principles and standards enshrined in international human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Some of the recommendations are also based on standards set out in the following United Nations (UN) instruments: The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the UN General Assembly in December 1988; and The Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the UN Economic and Social Council in May 1989.

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[31] The death penalty can be imposed for a variety of crimes, including murder, drug-smuggling, illegal possession of firearms, and subversion.

[32] He is detained in Staal Kuda prison, in Balikpapan, East Kalimantan.

Recommendations to the Government of Indonesia

To prevent the occurrence of extra-judicial execution, Amnesty International urges the government to:

1. prohibit by law all extra-legal, arbitrary and summary executions and ensure that any such executions are recognized as criminal offences and are punishable by penalties which take into account the seriousness of such offences;

2. invite the UN Special Rapporteur on summary or arbitrary executions to visit Indonesia and East Timor in order to conduct a full investigation of the human rights situation there;

To protect detainees against torture, other ill-treatment or "disappearance", Amnesty International urges the government to:

3. ensure that all detainees, including those held for suspected national security offences, are permitted prompt and regular access to legal counsel of their choice and to doctors and relatives;

4. establish and maintain centralized public registers of all people detained in all parts of the country, to be updated on a regular basis and made available to detainees, family and lawyers;

5. prohibit explicitly by law, all forms of torture and other cruel, inhuman or degrading treatment or punishment; and ensure that all such acts are recognized as criminal offences and are punishable by appropriate penalties which take into account the seriousness of such offences;

6. take all necessary steps, including the effective enforcement of existing legislation and the introduction of further legislation, to ensure that statements extracted under torture cannot be admitted as evidence during legal proceedings, except against a person accused of torture as evidence that the statement was made.

7. invite the UN Special Rapporteur on Torture to conduct a follow-up visit to Indonesia and East Timor, to assess implementation of the recommendations set out in the report of his November 1991 visit.

To ensure that national security interests are not and cannot be invoked to imprison, or justify execution of, people for the peaceful exercise of their right to freedom of expression, Amnesty International urges the government to:

8. conduct a thorough review of all legislation pertaining to national security and public order, and promptly repeal the Anti-Subversion Law;

9. release immediately and unconditionally all those held solely for the non-violent expression of their political or religious views;

10. take immediate steps toward the abolition of the death penalty, including the suspension of its application and commutation of all sentences currently imposed.

To ensure that members of the security forces cannot commit human rights violations with impunity, Amnesty International urges the government to:

11. bring to justice before a civilian court all members of the security forces suspected of committing human rights violations;

12. ensure that all those suspected of committing human rights violations are immediately disarmed and removed from active service;

13. establish an independent and impartial body whose duty is to initiate prompt and thorough investigations into all reports of human rights violations.

To demonstrate commitment to international human rights standards, and to encourage their full and effective implementation, Amnesty International urges the government to:

14. ratify or accede to the International Covenant on Civil and Political Rights (ICCPR), as well as the (first) Optional Protocol of the ICCPR, which permits the Human Rights Committee to receive individual complaints;

15. ratify or accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and recognize the competence of the UN Committee against Torture to receive individual complaints (article 22), and to hear inter-state complaints (article 21);

16. permit the regular and unhindered monitoring of human rights in Indonesia and East Timor by national and international humanitarian and human rights organizations, including Amnesty International;

17. Welcome international observers at political trials.

Recommendations to the UN Commission on Human Rights

In view of the grave concern about human rights in Indonesia and East Timor expressed in a consensus statement at the 48th Session of the UN Commission on Human Rights, and in Resolution 1992/20 of the 44th Session of the UN Sub-Commission, Amnesty International urges the UN Commission on Human Rights to:

1. seek a systematic follow up, through the UN Commission on Human Rights, to the January 1992 report of the Special Rapporteur on Torture on his visit to Indonesia and East Timor;

2. seek a full report to the UN Commission on Human Rights by the UN Secretary-General regarding the results of the visit to East Timor in February 1992 by his emissary Mr Amos Wako;

3. encourage the Government of Indonesia to invite the UN Special Rapporteur on summary or arbitrary executions, and the Working Group on Arbitrary Detention, to visit Indonesia and East Timor in order to conduct full investigations of the human rights situation there;

4. seek effective means whereby the regular monitoring of the human rights situation in Indonesia and East Timor under UN auspices can be assured.

5. urge the Indonesian Government to permit the regular and unhindered monitoring of human rights in Indonesia and East Timor by national and international humanitarian and human rights organizations, including Amnesty International;

6. encourage the Government of Indonesia to ratify or accede to the International Covenant on Civil and Political Rights (ICCPR), as well as the (first) Optional Protocol of the ICCPR, which permits the Human Rights Committee to receive individual complaints;

7. encourage the Government of Indonesia ratify or accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and recognize the competence of the UN Committee against Torture to receive individual complaints (article 22), and to hear inter-state complaints (article 21).

Appendix I

Recommendations from the Report of the UN Special Rapporteur on Torture Following his Visit to Indonesia and East Timor
UN Document E/CN.4/1992/17/Add.1, January 1992

80. In the light of these considerations the Special Rapporteur wishes to make a number of recommendations:

(a) Accession by Indonesia to the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and ratification of the 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment are highly desirable;

(b) A greater awareness should be created within the judiciary of the vital role it can play in the enforcement of respect for human rights in general and for the right to physical and mental integrity in particular. The independence of the judiciary should be scrupulously respected;

(c) The responsibility of the independent Attorney-General's office and of the judiciary for the supervision of the legality of arrests and the regularity of criminal investigating procedures should be extended;

(d) An arrested person's right of access to a lawyer, which is guaranteed by law, should be strictly respected;

(e) All evidence which is obtained in a way which is not in conformity with the law should be dismissed in court;

(f) In view of the lack of clarity as to whether basic human rights are required to be respected under the Anti-Subversion Law and in view of the fact that crimes against the security of the State and against public order are already punishable under the present Criminal Code (and will also be so under the new Criminal Code which is in the process of being drafted), the Anti-Subversion Law should be repealed;

(g) A national commission on human rights should be established (on the proposal of the Interdepartmental Committee on Human Rights, see para. 13 above). The primary task of such a commission should be to educate authorities and officials in the field of human rights;

(h) An authority or agency should be established where victims of human rights violations (e.g. torture) can file their complaints. Such an agency should have independent investigative powers. Local offices of a national commission on human rights could function as such an agency;

(i) A system of regular visits to all places of detention, including police stations, by an independent authority should be established. Local offices of a national commission on human rights could be entrusted with this task;

(j) Officials who have been found guilty of committing or condoning torture or other cruel, inhuman or degrading treatment should be severely punished;

(k) Jurisdiction over offenses committed by members of the armed forces, including the police, should be given to the civilian courts.

Appendix II

Consensus Statement of the UN Commission on Human Rights Concerning East Timor
Geneva, 4 March 1992

Item 12

I have been asked to make the following statement announcing what has been agreed by consensus by the Commission on the situation of human rights in East Timor:

1. The Commission on Human Rights notes with serious concern the human rights situation in East Timor, and strongly deplores the violent incident in Dili, on 12 November 1991 which resulted in the loss of lives and injuries of a large number of civilians and in many unaccounted for.

2. The Commission welcomes the early action of the Indonesian Government in setting up a national commission of inquiry and the prompt response which its advance report elicited from the highest Indonesian authorities; expresses its hope that, as announced by the Indonesian Government personnel on November 12, 1991, and into the fate of those unaccounted for will clarify the remaining discrepancies, namely on the number of people killed and those missing.

3. The commission is encouraged by the recent announcement by the Indonesian authorities of disciplinary measures and military court proceedings regarding some members of its Armed Forces and urges the Indonesian Government to bring to trial and punish all those found responsible. Furthermore, the Commission calls upon the Indonesian authorities to ensure that all civilians arrested on the occasion are treated humanely, that those brought to trial are assured of proper legal representation and fair trial and that those not involved in violent activities are released without delay.

4. The Commission welcomes the appointment of Mr Amos Wako, as Personal Envoy of the Secretary General of the United Nations, to obtain clarification on the tragic events of November 12, 1991 and the willingness of the Indonesian authorities to cooperate fully with him. The Commission encourages the Secretary General to continue his good offices for achieving a just, comprehensive and internationally acceptable settlement of the question of East Timor.

5. The Commission urges the Government of Indonesian to improve the human rights situation in East Timor: commends the report entitled "Visit by the Special Rapporteur to Indonesia and East Timor" of its Special Rapporteur on Torture following his visit at the invitation of the Indonesian Government; urges the Indonesian authorities to take the necessary steps to implement its recommendations and looks forward to a report thereon; calls on the Indonesian government to facilitate

access to East Timor for additional humanitarian organizations and for human rights organizations; and requests the Secretary General to continue to follow closely the human rights situation in East Timor and to keep the Commission informed at its 49th session.

6. This statement will be included verbatim in the report of the 48th session of the Commission

Appendix III

Resolution 1992/90 concerning East Timor
44th Session of the UN Sub-Commission
for the Prevention of Discrimination and Protection of Minorities
Geneva, August 1992

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling resolution 37/30 of 23 November 1982 of the General Assembly, in which it requested the Secretary-General to initiate consultations with all parties directly concerned to resolve the conflict in East Timor,

Recalling, its resolutions 1982/20 of 8 September 1982, 1983/26 of 6 September 1983, 1984/24 of 29 August 1984, 1987/13 of 2 September 1987, 1989/7 of 31 August 1989 and 1990/15 of 30 August 1990 concerning the situation in East Timor,

Bearing in mind the consensus statements by the Chairman of its forty-third session (see E/CN.4/Sub.2/1991/SR.26) and the Chairman of the Commission on Human Rights, at its forty-eighth session (see E/CN.4/1992/SR.54/Add.1).

Having examined the report of the visit to East Timor by the Special Rapporteur on the question of torture of the Commission on Human Rights, Mr Peter Kooijmans (E/CN.4/1992/17/Add.1),

Appalled at the loss of life and injuries among civilians resulting from the violent incidents in Dili on 12 November 1991 and concerned at the fate of those who are missing,,

Welcoming the decision of the Secretary-General to send Mr S. Amos Wako as his Personal Envoy to inquire into the violent incidents of 12 November 1991.

Regretting that the National Commission of Inquiry set up by the Government of Indonesia failed to identify clearly those responsible for the killings,

Considering that the Government of Indonesia had undertaken to adopt the measures necessary towards the implementation of the recommendations of the Special Rapporteur on the question of torture,

Disturbed by the heavy sentences passed on the East Timorese involved in peaceful political activities on the basis of the "Anti-Subversion Law", the abrogation of which had been recommended by the Special Rapporteur on the question of torture, Disturbed also by reports of continuing human rights violations in East Timor,

Disappointed by the persistent denial of access to the territory to human rights organizations,

1. Deplores the tragic events in Dili of 12 November 1991 in which East Timorese civilians, including women and children, were killed;

2. Expresses its utmost concern at reports of continuing widespread human rights violations in East Timor;

3. Invites the Secretary-General to transmit the full report of his personal Envoy, Mr S. Amos Wako, to the Commission on Human Rights at its forty-ninth session;

4. Requests the Secretary-General, in preparing his report on the situation in East Timor for consideration by the Commission on Human Rights under item 12 of its agenda, to include an analytical compilation of all information received from, among others, Governments, intergovernmental and non-governmental organizations;

5. Commends the decision of the Government of Indonesia to set up a National Commission of Inquiry, but regrets that investigation of the actions of the armed forces on 12 November 1991 has not been followed through and invites the Indonesian authorities to cooperate in the preparation of the above-mentioned report of the Secretary-General by providing information on the complementary measures to bring the members of the armed forces responsible to justice;

6. Urges the Government of Indonesia to provide the Working Group on Enforced or Involuntary Disappearances with information regarding the missing persons;

7. Also urges the Indonesian authorities, on humanitarian grounds, to cooperate with the families of the victims by providing information about the dead and the whereabouts of their remains for proper burial;

8. Calls upon the Indonesian authorities to honour their commitment to facilitate access to East Timor by humanitarian and human rights organizations;

9. Decides to review the situation in East Timor at its forty-fifth session and to this end requests the secretariat to transmit to it all available information concerning the human rights situation in the territory.

34th meeting
27 August 1992
[Adopted by secret ballot by 13 votes to 6,
with 4 abstentions. See Chap. VII.]